

# Notice of Allowability

Application No.

10/727,452

Examiner

Mike Rahmjoo

Applicant(s)

PARAGIOS, NIKOLAOS

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/04/03.
2. ☒ The allowed claim(s) is/are 1-14 and 16-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other restriction/election.

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1- 14, 16- 19, drawn to boundary based image segmentation, classified in class 382, subclass 199.
- II. Claim 15, drawn to image segmentation, classified in class 382, subclass 173.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because group I has separate utility such as boundary based segmentation. The subcombination has separate utility such as image segmentation.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if

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any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper. During a telephone conversation with Mr. Paschburg on 05/07/2007 a provisional election was made without traverse to prosecute the invention of group I, claims 1- 14 and 16- 19.

Affirmation of this election must be made by applicant in replying to this Office action. Claim 15 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

#### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Paschburg on 05/24/2007.

The application has been amended as follows:

Please cancel claim 15.

As per claim 1:

Line 3 please delete "segmenting" and insert "an initial segmentation of";

Lines 6- 7 after "providing " please delete "an edit point of the level set representation" and insert "one or multiple user defined edit points in the image";

Line 9 after propagation please insert "s" at the end of "constraint";

Lines 11- 12 after determining please delete "a segment" and insert "the final segmentation" and after "according to the " please insert "converted to constraints" and add "s" at the end of "point".

As per claim 14:

Line 5 please delete "segmenting" and insert "an initial segmentation of";

Lines 8- 9 after "providing " please delete "an edit point of the level set representation" and insert "one or multiple user defined edit points in the image";

Line 10- 11 after propagation please insert "s" at the end of "constraint";

Lines 12- 13 after determining please delete "a segment" and insert "the final segmentation" and after "according to the " please insert "converted to constraints" and add "s" at the end of "point".

***Allowable Subject Matter***

Claims 1- 14 and 16- 19 are allowed.

The following is an examiner's statement of reasons for allowance:

None of the prior art, either singularly or in combination, fairly teaches or suggests applicant's claimed invention wherein applicant recites "determining the final segmentation according to the converted to constraints edit point and the level set representation."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent 7079674

US PAP 2003/ 0095121 teaches A method for segmentation of 2D structures in CT and MR images is provided. The method is based on 2D ray propagation by mean-shift analysis with a smoothness constraint. Ray propagation is used to guide an evolving curve due to its computational efficiency and shape priors are incorporated for robust convergence. The method includes the steps of receiving 2D image data; visualizing the 2D image data on a display device; selecting a structure in the 2D image data by placing a seed in the structure; initializing a plurality of rays from the seed to form a curve; determining a speed function of each of the

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rays; evolving the curve by propagating the rays based on the speed function of each of the rays; converging the rays on a boundary of the structure; and segmenting the structure when all of the rays have converged on the structure's boundary.

### **Inquiry**

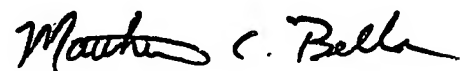
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is 571-272-7789. The examiner can normally be reached on 8 AM- 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Rahmjoo

May 17, 2007



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